D.B. CIVIL CONTEMPT PETITION (WRIT) NO. 313/2007

Bhag Chand Barala

Vs.

Shri Narendra Kumar Purohit and Ors.

Date of Order :: 7.12.2007

HON'BLE THE ACTING CHIEF JUSTICE MR. RAJESH BALIA
HON'BLE MR. JUSTICE BHANWAROO KHAN

Mr. BN Kalla, for the petitioner.
Mr. GR Punia, for the respondents.

This application has been moved for initiating proceedings against the respondents No.1 to 3, the officers of judicial services who are impleaded as respondents, and respondent No.4 Joint Director, Pension and Pension Welfare Department, Regional Office, Ajmer.

The grievance of the petitioner is that vide order dated 10.2.2006 the Court has directed to release the gratuity amount of the petitioner after adjusting the amount due against the petitioner on account of building loan.

The petitioner's contention is that the petitioner has deposited the loan amount vide challan, but has only been sent the amount of Rs.10,000/- of gratuity which he has not accepted and according to him total amount due for gratuity is Rs.1,31,500/-. The amount was received by the petitioner according to assertion on 31.7.2006.

That being not the complete amount of gratuity, he has not encashed the pay order and has lodged the protest vide his communication dated 6.10.2006. Thereafter, this application has been filed on 5.5.2007 for initiating contempt proceedings against the aforesaid respondents.

The notices in the aforesaid petition has not been issued so far as the petitioner has not removed the defects till 21.9.2007.

We find that so far as respondents No. 1 to 3 are concerned, they are not personally responsible for making gratuity payment. This authority lies with the Pension department.

Mr. G.R. Punia appearing on behalf of the High Court has submitted that the Pension department has sent communication dated 26.7.2007 according to which the remaining balance of Rs.1,21,500/- has been paid to the applicant vide pay order dated 3.5.2007 reiterating that Rs.10,000/- pay order was already sent to the applicant earlier. Thus, entire amount of gratuity has been paid.

Learned counsel for the applicant-petitioner is not aware about this fact. The letter received from the Additional Director(Pension) by the District and Sessions Judge, Bhilwara under whom the petitioner was serving at the time of retirement

has been produced for our perusal in support of this contention. We have no reason to doubt that.

In view of the aforesaid, no cause survives for initiating contempt proceedings. However, it is expected that if the earlier pay order of Rs.10,000/- sent to the petitioner-applicant had become non-payable on account of expiry of period, the same may be renewed or fresh pay order may be made by cancelling the same.

The application is accordingly disposed off.

[BHANWAROO KHAN],J. [RAJESH BALIA],ACTG.CJ.

RM/